

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION**

CASE NO. 23-80101-CR-CANNON(s)

UNITED STATES OF AMERICA,

Plaintiff,

v.

**DONALD J. TRUMP,
WALTINE NAUTA, and
CARLOS DE OLIVEIRA,**

Defendants.

**AMERICA FIRST LEGAL'S UNOPPOSED MOTION FOR
LEAVE TO PARTICIPATE AS AMICUS CURIAE AND
INCORPORATED MEMORANDUM OF LAW**

Daniel Z. Epstein
AMERICA FIRST LEGAL
FOUNDATION
611 Pennsylvania Ave. SE
#231
Washington, DC 20003

Judd E. Stone II
Ari Cuenin
STONE | HILTON PLLC
P.O. Box 150112
Austin, Texas 78715
judd@stonehilton.com
ari@stonehilton.com
(737) 465-7248

Samuel J. Salario, Jr.
Florida Bar No. 83460
LAWSON HUCK GONZALEZ, PLLC
1700 S. MacDill Ave., Ste. 300
Tampa, Florida 33629
samuel@lawsonhuckgonzalez.com
(850) 825-4334

Counsel for Amicus Curiae

INTRODUCTION

America First Legal Foundation (AFL) respectfully moves for leave to participate in these proceedings as *amicus curiae*, and to file the brief attached hereto as Exhibit A in support of President Trump's opposition to the government's Motion for Modification of Conditions of Release, ECF No. 592. The Court has previously granted AFL leave to file a brief as *amicus curiae* in this case, ECF Nos. 360, 367.

President Trump, through counsel, consents to the relief requested herein. The Government, through counsel, has stated that it takes no position on this Motion.

There are no federal or local rules that discuss *amicus* participation in district-court criminal cases; "the district court, however, has the inherent authority to appoint amici curiae, or 'friends of the court' to assist it in a proceeding." *Resort Timeshare Resales, Inc. v. Stuart*, 764 F. Supp. 1495, 1500 (S.D. Fla. 1991) (citing *United States v. State of Mich.*, 116 F.R.D. 655, 660 (W.D. Mich. 1987)). Other courts in this District have granted leave to participate when the *amicus* has a special interest or unique expertise that can assist the court in its consideration of the issues raised by the case. *See, e.g., United States v. Emmanuel*, No. 06-20758-CR, 2007 WL 2002452 (S.D. Fla. July 5, 2007). As detailed below, AFL has a special interest in the case as well as unique expertise in constitutional liberties that can assist this Court in its consideration of the issues presented.

MEMORANDUM OF LAW

I. Identity and Interest of *Amicus Curiae*.*

Amicus curiae is America First Legal (“AFL”), a non-profit organization dedicated to advocacy and action to defend citizens from unconstitutional government overreach, to stand up for free speech, and to uphold America’s Founding documents, the rule of law, and our nation’s most cherished principles and traditions. AFL has a special interest in protecting First Amendment liberties and advocating for the proper functioning of the criminal justice system on behalf of its constituents and in fulfilment of its mission; AFL writes for those purposes. Most importantly, AFL writes to protect the freedom of a major-party presidential candidate to speak freely on matters affecting politics and government—an area of expression central to First Amendment protection.

AFL was founded by and is staffed by former Department of Justice, White House, and Congressional attorneys who have broad experience and expertise in matters pertaining to the First Amendment and the administration of criminal justice critical to the Court’s analysis of the issues presented in the government’s Motion for Modification.

* No counsel for any party authored this motion, in whole or in part, nor did counsel for any party or either party make a monetary contribution intended to fund this motion in whole or part. No person or entity other than amicus and counsel for amicus contributed monetarily to this motion’s preparation or submission.

II. *Amicus* has Expertise in Constitutional Liberties, the First Amendment in Particular, Which Would Substantially Aid the Court.

Since its inception, AFL has participated in a number of cases as *amicus curiae* to offer those courts key insights into the First Amendment, its history and context, and its proper application. For example, AFL and 45 members of Congress filed a brief arguing against government coercion of speech related to the COVID-19 pandemic. *Brief for Representative Jim Jordan et al., Murthy v. Missouri*, No. 23-411 (S. Ct. *filed* Feb. 9, 2024). It filed an *amicus curiae* brief urging the Supreme Court to require mandatory bar associations not to violate the First Amendment by funding ideological causes. *Brief of Amicus Curiae America First Legal Foundation, McDonald v. Firth*, 142 S. Ct. 1442 (2022) (No. 21-800). And it has filed an *amicus curiae* brief arguing against the imposition of similar speech-restricting conditions of release. *Brief of Amicus Curiae America First Legal Foundation, United States v. Trump*, 88 F.4th 990 (D.C. Cir. 2023) (No. 23-3190).

Given AFL's expertise and experience in this field, *amicus* respectfully suggests that the Court would benefit from its exposition of the First Amendment issues inherent in the government's Motion and proposed relief. The Court has previously granted AFL leave to file an *amicus* brief in view of expertise that would aid the Court's consideration. *See* ECF Nos. 360, 367. AFL respectfully submits that the Court would similarly benefit from AFL's expertise here.

CONCLUSION

Based on the forgoing, *amicus curiae* respectfully requests leave to file the *amicus curiae* brief attached hereto as Exhibit A.

CERTIFICATE OF CONFERENCE

Pursuant to Local Rule 88.9(a), undersigned counsel certifies that AFL has conferred in good faith with counsel for President Trump and the Government concerning the relief requested by this motion. President Trump gave consent to the relief requested herein. Counsel for the Government stated the Government takes no position on the relief requested herein. Therefore, this motion is **unopposed**.

Dated: June 20, 2024.

Respectfully submitted,

By: /s/ Judd E. Stone
Judd E. Stone II
Ari Cuenin
STONE | HILTON PLLC
P.O. Box 150112
Austin, Texas 78715
judd@stonehilton.com
(737) 465-7248

By: /s/ Samuel J. Salario
Samuel J. Salario, Jr.
Florida Bar No. 83460
LAWSON HUCK GONZALEZ, PLLC
1700 S. MacDill Ave., Ste. 300
Tampa, Florida 33629
samuel@lawsonhuckgonzalez.com
(850) 825-4334

Daniel Z. Epstein
AMERICA FIRST LEGAL FOUNDATION
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Washington, DC 20003

Counsel for Amicus Curiae